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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,556	01/17/2002	Henry Wang	10065-001	8684
29391	7590	10/20/2004	EXAMINER	
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A. 390 NORTH ORANGE AVENUE SUITE 2500 ORLANDO, FL 32801			FLORES SANCHEZ, OMAR	
		ART UNIT	PAPER NUMBER	
		3724		
DATE MAILED: 10/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/051,556	WANG, HENRY	
	Examiner Omar Flores-Sánchez	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4,6-23,26,27 and 33-39 is/are pending in the application.
- 4a) Of the above claim(s) 7-17,20 and 21 is/are withdrawn from consideration.
- 5) Claim(s) 1 and 35 is/are allowed.
- 6) Claim(s) 2,6,18,19,22,23,26,27,32-34 and 36-39 is/are rejected.
- 7) Claim(s) 3 and 4 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This action is in response to applicant's amendment received on 07/19/04.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

3. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schufelberger (2,522,965).

Schufelberger discloses the invention including a body/structure/bridge 20, a first leg 15 having a first leg work piece-contacting surface, a center leg 15 (the inside leg 15, see Fig. 1) movably attached (16 and 27) to the body and having center leg work piece-contacting surface, first and second tunnels (Fig. 1) a second leg 33/outside leg having a second leg work piece-contacting surface and a non-slip surface 50 and an adjustable handle (45-46). Schufelberger's saw is capable of passing through the tunnel.

4. Claims 18, 19 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by C. Stotz (1,170,718).

Stotz discloses the invention including a body/structure/bridge 3, a first leg 6 having a first leg work piece-contacting surface, a tunnel (Fig. 1), a second leg 4 having a second leg work piece-contacting surface and a non-slip surface (the bottom surface of the member 6 and 8), means 9 for adjusting the width of the tunnel, a flat surface (the support surface of the base 1) at

least two co-planar (there are co-planar in the y-axis) work piece contacting surface. Where the first leg comprises a width different than a width of the second leg (see Fig. 1). Stotz's device is capable of passing a saw device through the tunnel.

5. Claims 18, 19 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Gakhar et al. (Des. 342,658).

Gakhar discloses the invention including a body/structure Fig. 7 having a flat surface, a first/inside leg Fig. 2 having a first leg work piece-contacting surface, a tunnel Fig. 5, a second leg Fig. 1 having a second leg work piece-contacting surface, a non-slip surface (the bottom surface of the two legs), means for adjusting the width of the tunnel Fig. 7 (two nuts and screws) and at least two co-planar work piece contacting surface. Gakhar's device is capable of passing a saw device through the tunnel.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 6, 33, 34, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gakhar et al. (Des. 342,658) in view of Werheiser (6044740).

Gakhar discloses the invention substantially as claimed including a body/structure Fig. 7 having a flat surface, a center leg Fig. 2 having a first leg work piece-contacting surface, a tunnel Fig. 5, a first leg Fig. 1 having a first leg work piece-contacting surface, a non-slip surface (the bottom surface of the two legs), means for adjusting the width of the tunnel Fig. 7 (two nuts and screws) and at least two co-planar work piece contacting surface. Gakhar's device is capable of passing a saw device through the tunnel. Gakhar does not show a handle attachable relative to the body at a plurality of positions. However, Werheiser teaches the use of a handle 240 attachable relative to the body at a plurality of positions (254 and 256) for the purpose of placing the handle at an optimum angle to provide a downward and forward pressure on a work piece. It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Gakhar's handle by providing the handle attachable relative to the body at a plurality of positions as taught by Werheiser in order to obtain an optimum angle to provide a downward and forward pressure on a work piece.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings (4,370,909) in view of Morris (4,476,757).

Jennings discloses the invention substantially as claimed including a tunnel 24, two work piece-contacting surfaces/inside and out side work pieces contacting members (26 and 28) having a non-slip surface (the bottom surface of the member 26 and 28). Jennings does not show an elastomer non-slip material with a plurality of recesses. However, Morris teaches the use of an elastomer non-slip material 36 with a plurality of recesses for the purpose of reducing the kickback during cutting. It would have been obvious to one ordinary skill in the art at the time

the invention was made to have modified Jennings's device by providing the elastomer non-slip material with a plurality of recesses as taught by Morris in order to obtain a better device to reduce the kickback during cutting.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gakhar et al. (Des. 342,658) in view of Morris (4,476,757).

Gakhar discloses the invention substantially as claimed including a tunnel Fig. 5, two work piece-contacting surfaces/inside and out side work pieces contacting members (Fig. 1 and 5) having a non-slip surface (the bottom surface of the two legs). Gakhar does not show an elastomer non-slip material with a plurality of recesses. However, Morris teaches the use of an elastomer non-slip material 36 with a plurality of recesses for the purpose of reducing the kickback during cutting. It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Gakhar's device by providing the elastomer non-slip material with a plurality of recesses as taught by Morris in order to obtain a better device to reduce the kickback during cutting.

10. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gakhar et al. (Des. 342,658) in view of Wirth, Jr. et al. (6135521).

Gakhar discloses the invention substantially as claimed including a tunnel Fig. 5, two work piece-contacting surfaces/inside and out side work pieces contacting members (Fig. 1 and 5) having a non-slip surface (the bottom surface of the two legs). Gakhar does not show an elastomer non-slip material with a plurality of recesses. However, Wirth, Jr. et al. teach the use

of an elastomer non-slip material 18 for the purpose of increasing the friction between the workpiece and the push stick. It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Gakhar's device by providing the elastomer non-slip material as taught by Wirth, Jr. et al. in order to obtain a better device to increase the friction between the workpiece and the guide system. Regarding the plurality of recesses, the examiner takes Official Notice that it is well known in the art for frictional elastomers to have grooves (e.g. tires). It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Gakhar's device by providing the plurality of recesses in order to obtain more efficiently increase the friction between the workpiece and the push stick.

11. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gakhar et al. (Des. 342,658).

Gakhar discloses the invention substantially as claimed except for different width legs. It would have been an obvious matter of design choice to have modified Gakhar's legs, since applicant has not disclosed that different width legs solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with same width legs. See *in re Kuhle*, 188 USPQ 7.

Allowable Subject Matter

12. Claims 1 and 35 are allowed.

13. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments have been fully considered but they are not persuasive. In response to applicant's argument that Schufelberger's saw passes entirely outside of the work-feeding fixture, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, Schufelberger's saw is capable of passing through the tunnel, where the tunnel high is greater than the radius of the blade 10. Also, Applicant argues that Schufelberger does not show a handle moveably fixable at any one of a plurality of positions along a width of the structure relative to the tunnel. However, Schufelberger teaches a handle moveably fixable at any one of a plurality of positions along a width of the structure relative to the tunnel (see col. 2, lines 45-50 and col. 3, lines 1-2).

Applicant argues that Jennings does not show contacting surfaces applying force to the top surface of the work piece. However, Jennings teaches contacting surfaces 26 and 28 applying force to the top surface of the work piece (see col. 2, lines 58-52).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ofs

October 18, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER